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SUBJECT: CAMBODIAN GOVERNMENT ANNOUNCES NEW CRIMINAL
JUSTICE WORKING GROUP

REF: PHNOM PENH 628

SENSITIVE BUT UNCLASSIFIED

¶1. (SBU) SUMMARY: Royal Government of Cambodia (RGC) officials announced the creation of a working group focusing on cooperation and consistency between the Ministry of Interior (MOI) and Ministry of Justice (MOJ) in the criminal justice process. The announcement by Prime Minister Hun Sen reflects a pledge by Deputy Prime Minister (DPM) Sar Kheng to address problems areas between the two Ministries, which he mentioned to Ambassador during the 2009 TIP Report rollout. The formation of the group is designed to improve coordination in the criminal justice process, preventing courts from dismissing or downgrading charges without investigating cases, and to prevent pre-trial detentions that sometimes exceed allowed limits. Sam Rainsy and a few non-governmental organizations (NGOs) have spoken out against the new group, calling it further evidence of the RGC's control of the judiciary. END SUMMARY.

Task Force Formation Part of Pledge by DPM

¶2. (SBU) Although the new task force will focus on all types of cases, including robbery and anti-corruption cases, direct applicability to human trafficking cases has been the Embassy's clearest window into the formation of the group. In June, during the rollout of the 2009 TIP Report, Ambassador and the DPM discussed the problem of inconsistencies in data reporting and difficulties tracking cases from the initial police investigation phases into judicial proceedings phases. At the time, the DPM instructed his staff to gather statistics on all arrests and ensure cases were being forwarded to the courts properly. During a TIP-focused meeting with staff delegation Lerner in August, the DPM spoke about meeting with the Minister of Justice to review TIP cases and indicated his intention to continue these joint reviews. Finally, during a September 1 meeting, the DPM told Ambassador Rodley and G/TIP Ambassador CdeBaca that MOI and MOJ were forming a working group to address consistency and regularly explore solutions to problem areas between the two Ministries.

¶3. (SBU) MOJ Undersecretary of State Ith Rady has been named by the Prime Minister to head the new working group, assisted by two deputies, Deputy Commissioner General of the National Police Kang Sakhorn and Deputy National Military Police Commander Sin Sophany. Both Ith Rady and Kang Sakhorn work frequently on TIP issues and are well-known contacts. Ith Rady told Poloff that DPM Sar Kheng nominated the three men for their positions on the working group, and the Prime Minister thereafter approved.

Task Force Cannot Oversee or Overrule Courts

14. (SBU) Ith Rady told Poloff that the working group does not have any oversight of courts or judges, nor can it overrule decisions made by the courts. Rather, he said, the task force's mandate is to collect statistics from police and courts in all provinces for review. If the group suspects a problem of coordination based on its reviews, the group is empowered to receive case details from the police or court, after which it sends a report to the responsible Minister, Justice or Interior. The Minister would then be responsible for further action and follow up, including bringing the case to the attention of the Prime Minister or to the Supreme Council of the Magistracy (SCM), the nine-member body appointed by the King that has administrative oversight for the courts. Ith Rady said the purpose of the group is not to supersede the authority of the courts or the SCM, but to locate points where the system is breaking down, and bring those to the attention of senior leaders who have authority in those areas.

Opposition Party and NGO Reaction

15. (SBU) Opposition Parliamentarian Sam Rainsy excoriated the idea of the task force in local media reports, saying that "the judiciary will now lose whatever independence is left to it."

16. (SBU) But local NGOs have adopted a more measured response. Several NGO leaders told Poloff that they recognized the existence of entrenched problems between the Ministries of Interior and Justice, and believed that some kind of review was necessary. Nonetheless, they feared that

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a formal task force presented the potential for misuse that could "scare" judges into making decisions based on what they thought the government leaders wanted, rather than based on the facts. Sok Sam Oeun, Executive Director of the Cambodian Defenders Project, told Poloff he believed that a working group could be effective, if it impartially looked at all angles of all cases. He said the task force cannot focus solely on acquittals as indicators of corruption, but should look at convictions, too, to ensure that those convictions were valid. As an example, he cited land cases where wealthy developers are suspected of bribing police and court officials to arrest and convict villagers who lack the resources to fight a lawsuit.

COMMENT

17. (SBU) This move toward increased cooperation between two Ministries that have historically failed to communicate and have blamed each other signifies that the RGC is aware of the breakdown in the criminal justice system such lack of coordination causes, and that it is serious about resolving those problems. Particularly in anti-TIP efforts, Post has witnessed numerous questionable incidents where apparently strong cases were dismissed, or charges were downgraded to lesser offenses, sometimes simply because the police failed to show up to testify, and other times with little or no apparent justification. RGC officials believe this task force will also help resolve the issue of pre-trial detentions that extend beyond the legally allowed limits (often because the case is lost in the bureaucracy), and we continue to urge law enforcement and judicial authorities to cooperate in resolving these issues. But NGO leaders also raise important concerns about the ability of the courts to rule independently if they fear consequences of executive review, and about whether the task force is prepared to examine all angles of cases and not simply assume that acquittals are a sign of corruption. As usual, constructive implementation of this positive policy development will be key to its ultimate success, and we will continue to support RGC efforts toward that end. END COMMENT.

RODLEY